IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.MC.No. 3037 of 2007()

CRMP.4490/2007 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD
CRIME NO.283/2007 OF MANJERSWARAM POLICE STATION

.....

PETITIONER: ACCUSED:

HANEEFA, S/O.ABUBAKER HAJI,
SHAINAZ MANZIL, HIDAYATH NAGAR, P.O.UPALA,
KASARAGOD.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANTS:

---

1. STATE REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. STATION HOUSE OFFICER,
MANJERSWARAM POLICE STATION (CRIME NO. 283/2007), MANJESWARAM, KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3037 of 2007

Dated this the 9th day of October 2007

O R D E R

The petitioner faces allegations under Section 393 I.P.C. He was granted bail by the learned Chief Judicial Magistrate, Kasargod subject to conditions. The learned Chief Judicial Magistrate has insisted that the sureties must produce solvency certificates. The petitioner has remained in custody from 12/9/2007. The order granting bail was passed on 20/9/2007. Because of the insistence by the learned Chief Judicial Magistrate that the sureties must produce solvency certificates to prove their solvency, the petitioner is not able to get himself released on bail. The petitioner is in custody. He has no one to look after his interests outside. If it were insisted that the petitioner's sureties must produce solvent sureties, the petitioner will have to languish in prison for a long period of time. In these circumstances, the petitioner has come to this court with the prayer that insistence on production of solvency certificates rigidly may be dispensed with. The learned Chief Judicial Magistrate may be directed to consider the solvency of the sureties on the basis of whatever materials are produced by them and if satisfied, may be accepted without ritualistically insisting on production of solvency certificates. This, in short, is the plea raised.

2. Notice was given to the learned Public Prosecutor and a report was called for from the learned Chief Judicial Magistrate. The learned Public Prosecutor submits that the petitioner has no history of any criminal antecedents. The learned Public Prosecutor, in these circumstances, submits that the State has no objection if rigid insistence on production of solvency certificates is not made.

3. Having considered all the relevant circumstances, I am satisfied that the request of the petitioner can be accepted. It is directed that the learned Chief Judicial Magistrate need not rigidly and ritualistically insist on production on solvency certificates. If the sureties of the petitioner produce adequate materials to instill the requisite satisfaction in the mind of the learned Chief Judicial Magistrate that the sureties are sufficient and adequate, the learned Chief Judicial Magistrate may accept such sureties. Production of solvency certificates need not then be insisted.

4. This petition is accordingly allowed to the above extent.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007